



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
AIR AND RADIATION DIVISION
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

In the Matter of: Morgan Electro Ceramics
CONFERENCE PURSUANT TO SECTION 113 OF THE CLEAN AIR ACT
December 18, 2003

U.S. EPA OPENING STATEMENT

Pursuant Section 113 of the Clean Air Act ("Act"), and upon the request of Respondent, Morgan Electro Ceramics (Morgan), U.S. EPA is providing Morgan this opportunity to confer with U.S. EPA regarding the finding of violation (FOV) and notice of violation (NOV) issued on November 17, 2003. The FOV alleges that Morgan has violated the National Emission Standard for Hazardous Air Pollutants ("NESHAP") for Halogenated Solvent Cleaning at 40 C.F.R. Part 63, Subparts A and T in violation of Section 112 of the Act. The NOV alleges that Morgan has violated the federally-approved state implementation plan (SIP) for the State of Ohio in violation of Section 113(a)(1) of the Act.

Regulatory Background - FOV

Section 112(b) of the Act established a list of hazardous air pollutants ("HAPs") and provided that U.S. EPA shall add to the list additional pollutants which may present a threat of adverse human health effects through inhalation or other routes of exposure. Section 112(d) provides that U.S. EPA shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of listed HAPs. Section 112(h) provides that where it is not feasible to prescribe emission standards, U.S. EPA may prescribe design, equipment, work practice or operational standards.

Section 113(a)(3) of the Act provides that where U.S. EPA finds that any person has violated or is in violation of any requirement or prohibition of, among other things, any rule promulgated under the Act,

the Administrator may:

- (A) issue an order requiring compliance with the requirements or prohibitions of the Act;
- (B) issue an administrative penalty order;
- (C) bring a civil action for injunctive relief and/or assessment and recovery of civil penalties;
- (D) request the Attorney General to commence a criminal action.

Regulatory Background - NOV

In accordance with the Act, U.S. EPA has established national ambient air quality standards ("NAAQS") for criteria air pollutants. The NAAQS establish primary standards to protect the public health and secondary standards to assure public welfare. The Act required each state to submit to U.S. EPA for approval a SIP that provides for the implementation, maintenance and enforcement of NAAQS in each air quality control region in each state. The Act provides that U.S. EPA approval of a SIP makes all the requirements of that SIP enforceable by the federal government.

Section 113(a)(1) of the Act provides that where U.S. EPA finds that any person has violated or is in violation of any requirement or prohibition of an applicable SIP or permit, U.S. EPA shall notify the person and the state in which the plan applies of such finding. At any time after the expiration of 30 days following the date on which such notice of a violation is issued, the Administrator may:

- (A) issue an order requiring compliance with the requirements or Prohibitions of the Act;
- (B) issue an administrative penalty order;
- (C) bring a civil action for injunctive relief and/or assessment and recovery of civil penalties;
- (D) request the Attorney General to commence a criminal action.

Penalty Provisions

Sections 113(b) and 113(d) of the Act and the Debt Collection Improvement Act provide that

violators are subject to civil penalties of \$25,000 (prior to January 31, 1997) and \$27,500 (after January 31, 1997) per day, per violation. Section 113(c) of the Act provides for criminal fines and imprisonment where any person, including any responsible corporate officer, knowingly violates certain provisions of the Act. In appropriate cases, U.S. EPA may seek non-compliance penalties under Section 120 of the Act. Finally, Section 306 of the Act, as implemented by 40 C.F.R. part 32, provides that facilities in violation of the Act may be ineligible for federal contracts, grants or loans.

Compliance

U.S. EPA will be most interested today in determining the specific actions Morgan has taken and will take to ensure that it achieves and maintains compliance with the Act. Morgan may also advise the Agency at this time of any other factors it believes U.S. EPA should consider before taking further actions to address the alleged violations.